

REMARKS/ARGUMENTS

Claims 1, 4-6, 8-25, 28-43, 50-52 and 54-55 are pending in this application. Claims 1, 4, 8, 10-11, 13-18, 20-25, 28-29, 31, 33, 39, 42-43, 50-51 and 54 are currently amended. It is respectfully submitted that no new matter has been added. For example, support for the amendments to claims 1, 8, 16, 23-25, 31, 42-43 and 54 is found at Figures 2a-2b and elsewhere in the specification and claims as originally filed.

Claim Objections

Claim 33 is objected to for an informality. Claim 33 has been amended as required by the Examiner, and the objection is overcome.

Claim Rejections Under 35 U.S.C. 112

Claims 7, 10, 14, 15, 17, 21, 22, 39, 40, and 51-53 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for various reasons provided by the Examiner. Claim 51 has been amended to clearly set forth that it is intended to constrain the step of preparing a humeral surface. Each of the other claims has been either cancelled as being redundant or amended to overcome lack of antecedent basis. This rejection is overcome.

Claim Rejections Under 35 U.S.C. 101

Claims 1, 3-25, 27-43 and 50-55 are rejected under 35 U.S.C. 101, as being drawn to non-statutory subject matter. Each of the apparatus claims has

been amended as suggested by the Examiner. None of the method claims include a human within their scope, and each recites statutory subject matter. This rejection is overcome.

Claim Rejections Under 35 U.S.C. 103

Claims 1, 3-25, 27-43 and 50-55 are rejected under 35 U.S.C. 103 as being unpatentable over U.S. patents 4,550,450 to Kinnett, 5,571,203, to Masini, 4,042,980 to Swanson et al., and German patent DE 1164019 to Chiron-Werke. Claims 3, 7, 27, and 53 are cancelled rendering their rejection moot. Claims 1, 4-6, 8-25, 28-43, 50-52 and 54-55, as now amended, are each allowable because no combination of Kinnett, Masini, Swanson et al. and Chiron-Werke produces Applicant's invention as set forth in any of these currently amended claims.

Claim 1, as now amended, recites a total shoulder arthroplasty apparatus comprising a stemless, humeral head fixation with a rotationally-stabilizing base extension including a pair of substantially uniformly planar, intersecting fins. This feature is not taught or suggested by any of the references being relied upon by the Examiner. In fact, only the non-analogous hip replacement reference of Masini at, e.g., blade elements A, B, C and D of Figures 3 and 5 has anything remotely relevant to Applicant's invention. Even if the blade elements A, B, C and D of Masini were part of a stemless humeral head fixation for a total shoulder Arthroplasty, those blade elements A, B, C and D would not meet Applicant's required fins. The blades A, B, C, D of Masini simply do not include a pair of substantially uniformly planar, intersecting fins. Instead, the blades A, B, C and D of Masini's artificial hip apparatus protrude radially outward from a central bullet-like feature 312, such that they cannot be construed as being a pair of substantially uniformly planar, intersecting fins. Claims 8, 16, 23-25, 31, 42-43,

and 54, as now amended, are allowable for the same reasons as amended Claim 1. Each of Claims 4-6, 9-22, 28-41, 50-52 and 55 is allowable as being dependent from one or more of amended Claims 1, 8, 16, 23-25, 31, 42-43 and 54.

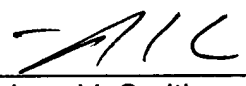
It is respectfully submitted that the application is now in condition for allowance. The Examiner's early reconsideration and further examination are respectfully requested.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896. A duplicate page is enclosed.

Respectfully submitted,

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